

REMARKS

Claims 21-33 are pending in this application. Claims 1-20 have been cancelled, and new claims 21-33 have been added. Applicant added new independent claims 21 and 33 to clarify the invention while dependent claims 22-32 contain the same subject matter as originally filed dependent claims 2-10, 12-16, and 18-20. No new matter has been added.

In the specification, page 4, paragraph 5 (lines 18-24) and page 7, paragraph 2 (lines 16 – 27) have been amended to correct typographical errors.

The foregoing amendments are taken in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicant would otherwise be entitled in view of the prior art.

By amending the application, the Applicants do not concede that the patent coverage available to them would not extend as far as the original claim. Rather, Applicants reserve the right to file a continuation application to pursue the breadth of the claims as filed. Applicants believe that the Examiner has not made a sufficient showing of inherency of the teachings of the asserted prior art, especially given the lack of teachings in the cited references of the properties that Applicants have recited in their claims.

Further, by the present amendment, it does not follow that the amended claims have become so perfect in their description that no one could devise an equivalent. After amendment, as before, limitations in the ability to describe the present invention in language in the patent claims naturally prevent the Applicants from capturing every nuance of the invention or describing with complete precision the range of its novelty or every possible equivalent. See, Festo Corp. v. Shoketsu Kinzoku Kogyo Kabushiki Co., 62 USPQ2d 1705 (2002). Accordingly, the foregoing amendments are made specifically in the interest of expediting prosecution and there is no intention of surrendering any range of equivalents to which Applicants would otherwise be entitled.

Formal Matters

In response to Examiner's objection to Applicant's declaration, Applicant has attached a new declaration to this response clearly identifying Applicant Michael C. Jeziak as the sole inventor of the present invention.

Rejections under 35 USC §112 ¶ 2

The Examiner rejected claims 9, 12-16, and 19 as being indefinite for failing to particularly point out and distinctly claim the subject matter of Applicant's invention.

Applicant has cancelled claims 9, 12-16, and 19. This cancellation renders Examiner's rejection under §112 ¶ 2 moot. Applicant respectfully requests that Examiner withdraw this rejection.

Rejections under 35 USC §102 and §103

The Examiner cites U.S. Pat. No. 6,343,604 to Bealle ("Bealle") as anticipating claims 1, 5, 6, 9, 17, and 19; U.S. Pat. No. 5,557,804 to Ovortrup et al. ("Overtrup") as anticipating claims 1 and 4; U.S. Pat. No. 6,274,787 to Downing ("Downing") as anticipating claims 1, 7, and 17; and U.S. Pat. No. 3,334,626 to Schimmel ("Schimmel") as anticipating claims 1 and 3 under 35 USC §102. Additionally, Examiner cites Schimmel as making obvious claim 2, and Downing as making obvious claims 11 and 14-16 under 35 USC §103(a). Applicant respectfully asserts that these rejections are moot in view of the claim amendments.

Specifically, claim 21 teaches a method of protecting newly applied body art on a skin surface art by applying body art to a skin surface and protecting the body art with a cover that attaches to the skin to create a gapped region between the cover and the body art where the cover shields the entire body art, and where the cover includes a peripheral portion having a mating surface for placement on the skin surface approximately adjacent to the body art. Applicant respectfully asserts that new claim 21 renders Examiner's rejections moot. None of Examiner's cited references disclose a method of protecting body art as claimed by Applicant. Therefore Applicant traverses Examiner's rejections based on 35 USC §102 and §103. Applicant respectfully requests withdrawal of the rejections under §102 and §103.

Because independent claims 11, 21, and 28 are not anticipated by the prior art, claims 22-27 are also not anticipated or obvious as they depend on claim 21.

CONCLUSIONS

In view of Applicants' amendments and remarks, the Examiner's rejections are believed to be rendered moot. Accordingly, Applicants submit that the present application is in condition for allowance and requests that the Examiner pass the case to issue at the earliest convenience. Should the Examiner have any question or wish to further discuss this application, Applicant requests that the Examiner contact the undersigned at (248) 292-2920.

If for some reason Applicants have not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent the abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-1097 for any fee which may be due.

PETITION FOR EXTENSION OF TIME

Applicants respectfully request and petition an appropriate extension of time to respond to the outstanding Office Action, of at least one (1) month. Enclosed is a check in the amount of \$60.00. For any deficiencies, please charge Deposit Account No. 50-1097 for any fee, which may be due is hereby given.

Date: 3/31/05



Andrew N. Weber
Registration No. 55,888
Dobrusin & Thennisch PC
29 W. Lawrence Street,
Suite 210
Pontiac, MI 48342
248-292-2920
aweber@patentco.com
Customer No. 25,215